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GERBER PRODUCTS COMPANY
and NESTLÉ USA, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NATALIA BRUTON, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

GERBER PRODUCTS COMPANY,

Defendants.

No. 5:12-CV-02412 LHK

**STIPULATION REGARDING
DISMISSAL WITH PREJUDICE OF
NESTLÉ USA, INC.; AND
[PROPOSED] ORDER**

STIPULATION

Plaintiff Natalia Bruton (“Plaintiff”), defendant Gerber Products Company (“Gerber”),
and defendant Nestlé USA, Inc. (“NUSA”), by and through their attorneys of record, hereby enter
into the following stipulation:

WHEREAS, Plaintiff, on September 21, 2012, filed its Amended Class Action and
Representative Action Complaint for Damages, Equitable and Injunctive Relief (“First Amended
Complaint”), naming NUSA as a defendant. (Dkt. No. 26.)

WHEREAS, Gerber and NUSA, on October 5, 2012, moved to dismiss the First Amended
Complaint, including all of Plaintiff’s claims against NUSA. (Dkt. No. 28.)

WHEREAS, on September 6, 2013, this Court granted the motion to dismiss Plaintiff’s

1 claims against NUSA, with leave to amend. (Dkt. No. 57.) The Court's Order provided that
 2 "Should Bruton elect to file a Second Amended Complaint curing the deficiencies discussed
 3 herein, she shall do so within thirty (30) days of the date of this Order. Failure to meet the thirty-
 4 day deadline will result in dismissal with prejudice." (Dkt. No. 57 at 42.)

5 WHEREAS, on October 7, 2013, Plaintiff timely filed her Second Amended Class Action
 6 and Representative Action Complaint for Damages, Equitable and Injunctive Relief ("Second
 7 Amended Complaint"), which did not name NUSA as a defendant or seek any relief against it.
 8 (Dkt. No. 62.)

9 NOW, THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE:

- 10 (1) All claims alleged against NUSA in the First Amended Complaint are dismissed with
 11 prejudice;
 12 (2) NUSA is dismissed from this action with prejudice; and
 13 (3) Nothing in this Stipulation affects Plaintiff's claims against Gerber.

14 Dated: November 8, 2013

PRATT & ASSOCIATES

15 By: /s/ Ben F. Pierce Gore

16 Ben F. Pierce Gore

17 Attorneys for Plaintiff

18 NATALIA BRUTON

19 Dated: November 8, 2013

WHITE & CASE LLP

20 By: /s/ Bryan A. Merryman

21 Bryan A. Merryman

22 Attorneys for Defendants

23 GERBER PRODUCTS COMPANY

and NESTLÉ USA, INC.

ORDER

24 PURSUANT TO STIPULATION, IT IS SO ORDERED.

25 Dated: November 11, 2013

26 Lucy H. Koh
 27 HON. LUCY H. KOH
 28 United States District Judge